

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

400E0341

SENATE BILL NO. 53

Introduced by: The Committee on State Affairs at the request of the Department of Social Services

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the reunification of
2 an abused or neglected child with a parent and the subsequent termination of parental rights.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 26-8A-21.1 be amended to read as follows:

5 26-8A-21.1. Nothing in § 26-8A-21 requires reunification of a child with a parent who:

6 (1) Committed a crime defined in § 22-16-4, 22-16-7, 22-16-9, 22-16-15, 22-16-20, 22-
7 22-1, 22-22-19.1, 22-22-22, ~~or 26-10-1 or subdivision 22-22-1(1) or (2),~~ or
8 subdivision 22-19-1(5), or committed conduct described by any of those statutes that
9 violated the law or ordinance of another jurisdiction having elements similar to an
10 offense described by any of those statutes;

11 (2) Committed a crime defined in § 22-18-1.1 against the child or another child of such
12 parent; ~~or,~~ or committed conduct described by that section that violated the law or
13 ordinance of another jurisdiction having elements similar to the offense described by
14 that section;

15 (3) Has been determined by a court by clear and convincing evidence to have subjected

1 the child or another child to torture, sexual abuse, abandonment, chronic physical,
2 mental, or emotional injury, or chronic neglect;

3 (4) Is incarcerated and is unavailable to care for the child during a significant period of
4 the child's minority, considering the child's age and the child's need for care by an
5 adult;

6 ~~(3)~~(5) Has had parental rights to another child involuntarily terminated by a prior legal
7 proceeding;

8 ~~(4)~~(6) Has a documented history of abuse and neglect associated with chronic alcohol or
9 drug abuse; ~~or~~

10 ~~(5)~~(7) Has exposed the child to or demonstrated an inability to protect the child from
11 substantial harm or the risk of substantial harm, and the child or another child has
12 been removed from the parent's custody because the removed child ~~has been~~ was
13 adjudicated abused and neglected by a court on at least one previous occasion;

14 (8) Has exposed the child to or demonstrated an inability to protect the child from
15 substantial harm or the risk of substantial harm, the child has been removed from the
16 parent's custody on two separate occasions, and the Department of Social Services
17 offered or provided family services on each of the two separate occasions the child
18 was removed; or

19 (9) Has exposed the child to or demonstrated an inability to protect the child from
20 substantial harm or risk of harm resulting from a crime, act, or omission as specified
21 in subdivision (1), (2), or (3) of this section.

22 Section 2. That § 26-8A-26.1 be amended to read as follows:

23 26-8A-26.1. In addition to the provisions of § 26-8A-26, the court may find that good cause
24 exists for termination of parental rights of a parent who:

- 1 (1) Committed a crime defined in § 22-16-4, 22-16-7, 22-16-9, 22-16-15, 22-16-20, 22-
2 22-1, 22-22-19.1, 22-22-22, or 26-10-1 or subdivision 22-22-1(1) or (2), or
3 subdivision 22-19-1(5), or committed conduct described by any of those statutes that
4 violated the law or ordinance of another jurisdiction having elements similar to an
5 offense described by any of those statutes;
- 6 (2) Committed a crime defined in § 22-18-1.1 against the child or another child of such
7 parent; ~~or~~, or committed conduct described by that section that violated the law or
8 ordinance of another jurisdiction having elements similar to the offense described by
9 that section;
- 10 (3) Has been determined by a court by clear and convincing evidence to have subjected
11 the child or another child to torture, sexual abuse, abandonment, chronic physical,
12 mental, or emotional injury, or chronic neglect;
- 13 (4) Is incarcerated and is unavailable to care for the child during a significant period of
14 the child's minority, considering the child's age and the child's need for care by an
15 adult;
- 16 ~~(3)(5)~~ Has had parental rights to another child involuntarily terminated by a prior legal
17 proceeding;
- 18 ~~(4)(6)~~ Has a documented history of abuse and neglect associated with chronic alcohol or
19 drug abuse; ~~or~~
- 20 ~~(5)(7)~~ Has exposed the child to or demonstrated an inability to protect the child from
21 substantial harm or the risk of substantial harm, and the child or another child has
22 been removed from the parent's custody because the removed child ~~has been~~ was
23 adjudicated abused and neglected by a court on at least one previous occasion;
- 24 (8) Has exposed the child to or demonstrated an inability to protect the child from

1 substantial harm or the risk of substantial harm, the child has been removed from the
2 parent's custody on two separate occasions, and the Department of Social Services
3 offered or provided family services on each of the two separate occasions the child
4 was removed; or
5 (9) Has exposed the child to or demonstrated an inability to protect the child from
6 substantial harm or risk of harm resulting from a crime, act, or omission as specified
7 in subdivision (1), (2), or (3) of this section.